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 Attorneys for Defendants

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DAUPHIN COUNTY  
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IN THE COURT OF COMMON PLEAS OF THE 12<sup>TH</sup> JUDICIAL DISTRICT  
 DAUPHIN COUNTY, PENNSYLVANIA

Firearm Owners Against Crime,	:	Jury Trial Demanded
Kim Stolfer, Joshua First, and	:	
Howard Bullock,	:	
Plaintiffs	:	
v.	:	Civil Action
City of Harrisburg,	:	2015-CV-354-EQ
Mayor Eric Papenfuse, and	:	
Police Chief Thomas Carter,	:	
Defendants	:	

Defendants' Motion to Strike  
10 Day Default Notices

All Defendants ask this Court to strike the 10 day notice issued after removal to federal court:

1. Because Plaintiffs raise a Section 1983 claim asserting a violation of their constitutional rights, all Defendants removed this case to federal court on February 13, 2015.
2. Plaintiffs thereafter served Defendants with a 10 day notice, dated February 19, 2015.
3. This Court has already transferred the case and lacks jurisdiction.

4. The federal removal statute prohibits this Court from taking further action:

Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

28 U.S.C. § 1446(d).

5. Defendants immediately gave notice to Joshua Prince, Esquire, the attorney for all Plaintiffs, of removal, and Defendants filed a copy of the notice of removal with this Court. Accordingly, this Court “shall proceed no further.”

6. Plaintiffs argue in federal court in a motion to remand that removal was improper. Plaintiffs rely on a typographical error in the notice, in which Defendants failed to list Plaintiff Howard Bullock in the caption of the notice.

7. Plaintiffs’ argument falls flat. The notice of removal operates to remove the *entire* action. There is no such thing as a partial notice of removal.

8. Further, the Defendants did not need to list any Plaintiffs other than Firearm Owners Against Crime, in that Defendants could have used “et al.” for the rest.

9. More importantly, this Court lacks jurisdiction to resolve Plaintiffs’ arguments. If removal is improper (which Defendants deny), then the federal court will remand the case.

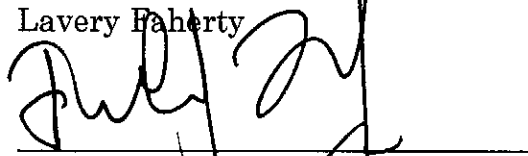
10. Defendants do not believe that oral argument or an evidentiary hearing are necessary, but defer to this Court as to whether this Court would like testimony or oral argument on the matter.

11. Discovery is not necessary for the resolution of this motion.

For these reasons, Defendants respectfully request this Honorable Court strike the 10 day notices.

Respectfully submitted,

Lavery Faherty

A handwritten signature in black ink, appearing to read 'Frank J. Lavery', is written over a horizontal line.

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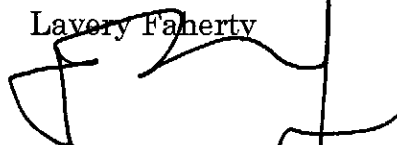
Dated: February 27, 2015

Certification of Counsel

Due to these time constraints, Defendants have e-mailed the text of the motions to Plaintiffs' counsel today, but cannot wait for concurrence. Accordingly, Defendants certify that they believe that Plaintiffs will oppose this motion.

Respectfully submitted,

Lavery Faherty

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Mayor Eric Papenfuse, and	:	
Police Chief Thomas Carter,	:	
Defendants	:	

Order

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2015, upon consideration of the within Defendants' Motion to Strike 10 Day Default Notices, IT IS HEREBY ORDERED AND DECREED THAT the Motion is GRANTED and that the 10 Day Default Notices are hereby stricken.

By the Court:

Dated: February \_\_, 2015

Distribution:

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